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Message Text

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ACTION SNM-05

INFO OCT-01 NEA-10 ISO-00 PPTE-00 L-03 JUSE-00 DEAE-00
SCS-06 TRSE-00 /025 W
----------064180 091141Z /13
R 090913Z SEP 78
FM AMEMBASSY KUWAIT
TO SECSTATE WASHDC 1762

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E.O. 11652: N/A
TAGS: SNAR, KQG
SUBJECT: NARCOTICS LAWS - KUWAIT

REF: (A) STATE 170187, (B) KUWAIT 4185.

THE KUWAIT MINISTRY OF INTERIOR IN COOPERATION WITH THE MINISTRY OF JUSTICE HAS RESPONDED IN PART TO THE QUESTIONS POSED IN REF A REGARDING KUWAIT NARCOTICS LAWS: THE MINISTRY'S RESPONSE, INTEGRATED WITH THE EMBASSY EXPERIMCE REGARDING THE LAWS AND PRACTICE, IS AS FOLLOWS:

1. POSSESSION:
A. THERE IS NO DIFFERENTIATION UNDER KUWAITI PENAL CODE FOR POSSESSION OF VARIOUS NARCOTICS SUBSTANCES.
B. THERE IS NO QUALIFYING AMOUNT SPECIFIED BY LAW FOR OPERATION OF THE OFFENSE. POSSESSION OF NARCOTICS IS PROHIBITED BY LAW REGARDLESS OF QUANTITY. IT IS DETER-MINED ON A DISCRETIONARY, CASE-BY-CASE BASIS WHETHER THE AMOUNT OF NARCOTICS IN POSSESSION INDICATES INTENT TO TRAFFIC.
C. PERSONS ARRESTED FOR POSSESSION ARE LIABLE TO IMPRISON-MENT NOT TO EXCEED TWO YEARS OR A FINE NOT TO EXCEED KD 150 (ABOUT DOLS 550) OR BOTH. PENALTY IS AT THE DISCRETION OF THE JUDICIAL AGE BY AND IS MADE ON A CASE-BY-CASE BASIS. STATISTICAL DETAILS COVERING ARRESTS FOR
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POSSESSION AND COURT RESULTS ARE UNAVAILABLE.

2. TRAFFICKING:
A. KUWAIT PENAL CODE CONSOLIDATES ALL NARCOTIC SUBSTANCES IN A GENERAL TRAFFICKING OFFENSE WITH NO DIFFERENTIATION PF PARTICULAR NARCOTIC SUBSTANCES:
B. MAXIMUM PENALTY IS IMPRISONMENT NOT EXCEEDING SEVEN

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YEARS OR A FINE NOT EXCEEDING KD 525 (ABOUT DOLS 1,850)
OR BOTH. MINIMUM PENALTY MAY NOT BE LESS THAN ONE THIRD OF
THE MAXIMUM PENALTY. WITHIN THESE LIMITS, PENALTIES ARE AT
THE DISCRETION OF THE JUDICIAL AGENCIES AND WRE MADE ON A
CASE-BY-CASE BASIS. STATISTICAL DETAILS TO INCLUDE ARRESTS
FOR TRAFFICKING AND COURT RESULTS ARE UNAVAILABLE.
C. ELEMENTS OF THE OFFENSE FOR TRAFFICKING ARE POSSESSION AND
CRIMINAL INTENT TO TRAFFIC.
D. THERE IS NO CRIMINAL OFFENSE SPECIFICALLY RELATING
TO CONSPIRACY TO TRAFFIC IN, IMPORT OR EXPORT NARCOTIC
SUBSHUNCES. HOWEVER, UNDER KUWAITI PENAL CODE ACCESSORIES
DEFORE AN/OR AFTER THE FACT IN ANY CRIME OR OFFENSE (IN
THE CASE OF POSSESSION OR TRAFFICKING) ARE LIABLE TO THE
SAME PENALTIES SPECIFIED FOR NARCOTICS OFFENSES IN 1C AND
2B. ABOVE.

3. CULTIGITION:
A. THERE IS NO KUWAIT LAW PRHIBITING CULTIVATION,
PRODUCTION OR ELABORATION OF CANNABIS, COCA OR OPIUM POPPY
BECAUSE THE KUWAIT ENVIRONMENT IS SAID TO BE NOT SUITABLE
FOR YECCESSFUL GROWTH OF THESE PLANTS.

4. FINANCIAL:
A. THERE IS NO OFFENSE AS SUCH SPECIFICALLY RELATING TO
FINANCIAL SUPPORT FOR MULTIVATION, ELABORATION OR TRAFFICKING
IN NARCOTICS. ACCESSORIES TO THE OFFENSES OF POSSESSION
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AND TRAFFICKING ARE LIABLE FOR THE PENALTIES STATED. THERE
IS LITTLE CONCERN AT THIS TIME FOR THIS ASPECT OF THE DRUG
PROBLEM.
B. THERE ARE NO CURRENCY CONTROL LAWS ON EXPORT OF
CURRENCY OR FOREIGN BANK ACCOUNTS.

5. CRIMINAL PROCEDURES:
A. THE CRIMINAL INVESTIGATOR MAY ORDER THAT THE
ACCUSED BE HELD IN PROVISIONAL CUSTODY FOR A PERIOD NOT
EXCEEDING THREE WEEKS FROM THE TIME OF THE ARREST. THE
ACCUSED MUST BE PRESENTED TO THE COURT BEFORE THE
EXPIRATION OF THAT PERIOD FOR RENEWAL OF PROVISIONAL
CUSTODY. THE COURT WILL DETERMINE THE PERIOD OF IMPRISON-
MENT NOT TO EXCEED FIFTEEN DAYS EACH TIME THE REMAND
RENEWAL IS ORDERED. CONSULAR ACCESS IS PERMITTED DURING
THIS PERIOD. THE EMBASSY (CONSUL) IS NOT ROUTINELY
NOTIFIED OF ARRESTS OF AMERICAN CITIZENS BY THE KUWAITI
AUTHORITIES, BUT THE CITIZEN IS NORMALLY, THOUGH NOT
ALWAYS, PERMITTED TO MAKE CONTACT WITH THE EMBASSY.

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B. STATISTICAL DATA FOR THE ACTUAL AVERAGE LENGTH OF PRETRIAL DETENTION IS UNAVAILABLE. AFTER IMPRISONMENT FOR SIX MONTHS FROM THE DATE OF ARREST UNDER THE PROVISIONS OF 5A ABOVE, CONTINUED CUSTODY MAY BE RENEWED BY THE COURT AT THE REQUEST OF THE INVESTIGATOR AFTER A REVIEW BY THE COURT OF THE ACCUSED'S STATEMENT AND INVESTIGATIVE RESULTS TO THAT DATE. THE COURT ORDER FOR CONTINUED IMPR-ISONMENT IS LIMITED TO THIRTY DAYS ON EACH REQUEST.
C. STATISTICAL DATA REGARDING AVERAGE LENGTH OF THE TRIAL PROCESS IS UNAVAILABLE. THE LENGTH OF TRIAL VARIES FROM CASE TO CASE DEPENDING ON SEVERAL FAVTORS INCLUDING INVESTIGATION TIME, DEFENSE, PLEASE, ETC. REVIEW/ CONFIRMATION PROCEEDING IS WITHIN ONE WEEK FROM THE DATE OF TRIAL COMPLETION. APPELLATE PROCESS IS WITHIN TWENTY DAYS FROM THE DATE OF SENTENCE OR THE DATE OF REVIEW.
D. THE ACCUSED IS ENTITLED TO ENGAGE HIS OWN LAWYER OR THE COURT WILL PROVIDE A LAWYER AT NO COST.
E. PRIOR TO TRIAL/SENTENCING, THE INVESTIGATING OFFICES MAY AT ANY TIME ISSUE AN ORDER TO RELEASE THE ACCUSED IF CUSTODY IS NO LONGER WARRANTED IN THAT THE RELEASE WILL NOT JEOPARDIZE THE INVESTIGATION AND IT IS BELIEVED THAT THE ACCUSED WILL APPEAR FOR TRIAL WHEN REQUESTED. PERSONS SERVING SENTENCE WHO HAVE COMPLETED 3/4 OF THE SENTENCE TIME AND NOT LESS THAN ONE YEAR MAY BE PAROLLED ON GOOD CONDUCT. IT IS THE PRACTICE THAT NON-KUWAITIS, FOLLOWING RELEASE FROM PRISON BY PAROLE OR COMPLETION OF SENTENCE, ARE DEPORTED.
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F. PRECISE MEANING OF REF A'S MENTION OF "EXPEL MINOR OFFENDERS" IS NOT CLEAR TO EMBASSY. OFFENDERS UNDER

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THE AGE OF 18 GENERALLY RECEIVE LESSER PENALTIES UNDER KUWAITI LAW THAN ADULTS. IF TO "EXPEL MINOR OFFENDERS" MEANS TO DEPORT PERSONS CHARGED WITH POSSESSION OF SMALL AMOUNTS OF NARCOTICS, KUWAITI CITIZENS WOULD PROBABLY NOT BE DEPORTED IN CONNECTION WITH ANY NARCOTICS OFFENSE. NON-KUWAITIS MIGHT WELL BE DEPORTED EITHER IN LIEU OF SENTENCING OR AFTER SERVING SENTENCE. HOWEVER, EMBASSY IS NOT AWARE OF ANY PROSECUTIONS OR DEPORTATIONS FOR PERSONAL POSSESSION OF SMALL QUANTITIES OF NARCOTICS. NO AMERICAN CITIZEN HAS BEEN ARRESTED ON A NARCOTICS CHARGE IN KUWAIT, TO THE BEST OF OUR KNOWLEDGE, AT LEAST IN THE PAST TWO YEARS.
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